



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1997

Mr. Joe Bridges
Assistant District Attorney
Denton County
Counsel to the Sheriff
127 N. Woodrow Lane
Denton, Texas 76205

OR97-0455

Dear Mr. Bridges:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104457.

The Denton County Sheriff (the "sheriff") received a request from an inmate's mother for records concerning that inmate. You assert that the requested information is not subject to disclosure under sections 552.027, 552.101, 552.103, and 552.108¹ of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.027 provides:

- (a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.
- (b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.

¹You contend the requested information is excepted from required public disclosure by section 552.108 of the Government Code. You did not, however, raise this particular exception within ten days of the sheriff's receipt of the open records request. See Gov't Code § 552.301(a). We therefore do not consider the applicability of this exception. See also Open Records Decision No. 515 (1988) at 6.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.²

Gov't Code § 552.027. You suggest that, because the requestor is asking on behalf of a person who is incarcerated, the requestor is acting as the inmate's *agent* and that, therefore, the sheriff may decline to comply with the request. We agree with your construction for two reasons.

First, we are bound to construe statutes in ways so as not to produce an absurd or unreasonable result. *City of Wilmer v. Laidlaw Waste Sys. (Dallas), Inc.*, 890 S.W.2d 459, 465 (Tex. App.--Dallas 1994), *aff'd*, 904 S.W.2d 656 (Tex. 1995); *see State Highway Dep't. v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.027 that would permit a governmental body to decline to comply with a request submitted by an inmate, on the one hand, but that would require the governmental body to comply with one submitted by an inmate's agent, on the other, is absurd on its face. We decline to adopt such a construction.

Second, construing the provision to require a governmental body to comply with a request submitted by an inmate's agent while at the same time permitting that governmental body to ignore a request submitted by the inmate himself would entail a manifest circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027. A bill analysis for House Bill No. 949 describes the evil that the legislation was designed to prevent:

Currently, Texas inmates are able to receive information through Chapter [552], Government Code (Open Records Act). Through this avenue, inmates have been using information obtained through Chapter [552] to file bogus income tax returns on correctional officers, harass nurses at their home addresses, and send mail to the homes of Texas Department of Criminal Justice employees.

²Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

- (A) a municipal or county jail;
- (B) a confinement facility operated by the Texas Department of Criminal Justice;
- (C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and
- (D) a community corrections facility operated by a community supervision and corrections department.

Tex. Sen. Criminal Justice Comm., Bill Analysis, Tex. H.B. 949, 74th Leg., R.S. (1995) (quoting from "Background") (available through Senate Research Center). If an agent of an inmate were permitted to avail himself of the Open Records Act to obtain information on behalf of an inmate who otherwise would be prevented by section 552.027 from obtaining the information, the manifest intention of the legislature would be thwarted. *See Crimmins v. Lowry*, 691 S.W.2d 582, 584 (Tex. 1985) ("legislative intent is the law itself, and must be enforced if determined although it may not be consistent with the strict letter of the statute").

We conclude that section 552.027 of the Government Code, which permits a governmental body to decline to accept or comply with a request for information that is submitted by an individual who is imprisoned or confined in a correctional facility, also permits a governmental body to decline to accept or comply with a request that is submitted by that person's agent.³

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 104457

Enclosures: Submitted documents

cc: Ms. K. Denise Thompson
2205 Amhearst Ct.
Flower Mound, Texas 75028
(w/o enclosures)

³Because we have resolved the matter under section 552.027, we need not address your other arguments against public disclosure.